

United States Senate

WASHINGTON, DC 20510

March 2, 2010

President Barack Obama
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear President Obama,

Thank you for the recent invitation to discuss health care at the White House with other congressional lawmakers. During that meeting I addressed the need for Congress and the Administration to seriously address fraud in public health programs, particularly Medicare and Medicaid, and suggested a few ideas.

You and many lawmakers agreed last Thursday about the need to reduce the massive costs associated with fraud and defensive medicine. According to last year's report on American health care by Thomson Reuters, an estimated \$175 billion is lost to fraud and abuse. And according to a recent Gallup survey of physicians, one in four health care dollars may be spent due to the practice of defensive medicine.

After the White House health care summit, your staff contacted my office to ask for an amendment I filed during the mark-up of The Affordable Health Choices Act (S. 1679) in the Committee on Health, Education, Labor and Pensions. This amendment was one of the 210 amendments I filed during the Committee consideration of this legislation. This amendment would essentially establish direct the Secretary and Inspector General of the U.S. Department of Health and Human Services to establish a demonstration project using undercover health care providers acting as patients to root out fraud.

I am pleased that you may be willing to consider this idea on fraud, but it alone is insufficient to staunch the flow of taxpayer dollars into the hands of criminals. I would encourage you to adopt other proposals that, I believe, would help lower the costs associated with fraud and defensive medicine.

Medicare and Medicaid Payment Reform

- I cosponsored two bills, one with Sen. LeMieux (S. 2128) and another with Sen. Cornyn (S. 975) which would change the way Medicare and Medicaid pay providers. These bills would change the current enforcement culture of "pay and chase," to one of "check and pay" where real-time data verification technology would ensure claims are not fraudulent before they are paid.
- My own health reform bill, the Patients' Choice Act, introduced in May 2009 with Senator Richard Burr (R-NC) and Representatives Paul Ryan (R-WI) and Devin Nunes (R-CA), would also use private sector technologies to significantly reduce waste, fraud and abuse.
- Members of Congress should look to the credit card industry as a model of fraud containment. This industry processes over \$2 trillion in payments every year from 700 million credit cards being used at millions of vendors to buy countless products. Yet, fraud in that industry is about one percent. In contrast, fraud in Medicare and Medicaid is ten times higher, costing American taxpayers an estimated \$1 trillion each decade.
- Any reforms to Medicare should use Medicare savings to extend Medicare's solvency. Medicare is not a piggy bank which can be used to pay for new subsidies to millions of Americans.

Defensive Medicine Reform

- I am pleased that you have indicated you may support funding to state demonstrations for resolving medical malpractice disputes. Certainly it is much better to reduce defensive medicine costs to make health care more affordable, rather than to raise taxes nearly half a trillion dollars as Congressional plans would require.

- A recent Gallup survey revealed that nine out of 10 physicians reported practicing defensive medicine.
- The Patients' Choice Act would encourage states to develop alternatives to tort litigation for medical malpractice claims. Qualifying health care panels would be composed of medical experts and attorneys appointed by the state who would review health care claims and make a determination as to the liability of the parties involved. Parties would be able to reject the determination and file a claim relating to the injury in a state court, but any party filing in state court would forfeit awards from the panel determination.

There are other good ideas which have been proposed which will empower states, not the federal government, and give patients and physicians more control over health care. Unfortunately, the health care bills in Congress would make the current problems worse, cutting roughly half a trillion dollars from Medicare, without making needed reforms. The Majority in the Senate authored over 10,000 pages of health reform legislation in 2009, but the mere inclusion of a few ideas from the other side of the aisle does not make the process or legislative product bipartisan.

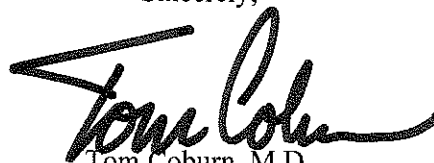
Mr. President, I'm concerned an all-or-nothing reconciliation strategy will give the American people nothing. Legislation that addresses the massive costs associated with fraud and defensive medicine, on the other hand, would give the American people the kind of targeted, common-sense reform they desire. Reducing the costs associated with fraud and defensive medicine would be a significant step in the right direction toward lower costs and improved access.

As you know, many Americans with extensive business experience, such as Warren Buffett, are urging us to pursue a Plan C. I agree and am willing to sit down with lawmakers from both sides of the aisle to work on step-by-step reforms which lower cost, not quality, and increase access, not taxes. Yet, creating a massive new entitlement when our current entitlement programs are bankrupt is reckless. The American people want Congress to start over in part because they understand that Congress is using Enron-style accounting gimmicks to hide the \$2.3 trillion cost for implementing the Senate bill.

As last week's summit showed, both parties do agree about many areas of reform. I appreciate the positive words you and other Democrats expressed about the need to reduce the costs associated with fraud and defensive medicine. We should continue to make progress, not cut off our discussions with a strategy that will go nowhere.

Finally, I would respectfully remind you that the American people have already spoken not just in polls but in elections. In fact, a recent CNN poll recently indicated that 7 in 10 Americans want Congress to start over on health care, or quit working on the issue altogether. I admire those who pursue their convictions, but health care is an issue too big in its scope for either side to pursue an all-or-nothing strategy. I, and many Republicans, have set aside visions for one-shot comprehensive reform. I respectfully encourage you to do the same. Together, we can achieve serious health care reform that will lower costs and improve access for millions of Americans.

Sincerely,



Tom Coburn, M.D.
U.S. Senator